## UNITED STATES DISTRICT COURT DISTRICT OF NEW MEXICO

DENNIS TRUJILLO,

Plaintiff,

v. Civ. No. 17-619 GJF

NANCY A. BERRYHILL, Acting Commissioner of the Social Security Administration,

Defendant.

## **ORDER GRANTING ATTORNEY FEES**

This matter is before the Court on Defendant's "Stipulation of Award of Attorney Fees Under the Equal Access to Justice Act" [ECF No. 25]. Having considered the record, relevant law, and the stipulations of the parties, **IT IS HEREBY ORDERED**:

- 1. Defendant will pay Plaintiff a total of \$5,900.00 in fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 *et seq*. This amount is payable to Plaintiff, not directly to his counsel. *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010). Additionally, Plaintiff is awarded \$400.00 in costs to be paid from the Judgment Fund. *See* 28 U.S.C. §§ 2412(c)(1), 2444. Plaintiff's payment will be remitted to the office of his attorney, Benjamin Decker.
- 2. Defendant's payment of this amount is without prejudice to Plaintiff's counsel's right to seek attorney fees under section 406(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA.
- 3. If Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

## IT IS SO ORDERED.

THE HONORABLE GREGORY J. FOURATT UNITED STATES MAGISTRATE JUDGE